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8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**
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11 IRASARI LAZAZZARO,

12 Plaintiff(s),

13 v.

14 HOTSPUR RESORTS NEVADA, LTD.,

15 Defendant(s).

Case No.: 2:17-cv-00657-JCM-NJK

Order

16 By operation of the local rules, the deadline to file the discovery plan in this case was July
17 28, 2017. *See* Docket No. 11 (motion to dismiss filed on June 13, 2017); Local Rule 26-1(a) (at
18 the latest, a discovery plan must be filed within 44 days after “the first defendant answers or
19 otherwise appears”). On December 19, 2018, 17 months after that deadline, the parties have filed
20 a discovery plan. Docket No. 35. The parties indicate that they did not do so previously because
21 Judge Mahan dismissed the second amended complaint with leave to amend. *Id.* at 1. This
22 statement, however, does not comport with the docket. First, the deadline to file a discovery plan
23 expired before Judge Mahan’s order was issued on August 4, 2017. Second, Judge Mahan’s order
24 did not end the case and, instead, a third amended complaint was filed to which a further motion
25 to dismiss was filed in response. Docket Nos. 20, 28. Discovery should have been proceeding, as
26 it is well-settled that the pendency of a motion to dismiss does not automatically stay discovery.
27 *E.g., Tradebay, LLC v. eBay, Inc.*, 278 F.R.D. 597, 601 (D. Nev. 2011). In short, discovery should
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1 already be completed in this case, but it has not even begun because counsel failed to comply with
2 the local rules.

3 The Court hereby **SETS** a hearing on the proposed discovery plan for 3:00 p.m. on January
4 3, 2019, in Courtroom 3B. Given the circumstances, counsel shall be prepared to explain why
5 they should be permitted any discovery or, alternatively, why a significantly shortened discovery
6 period should not be set.

7 IT IS SO ORDERED.

8 Dated: December 20, 2018

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12 Nancy J. Koppe
13 United States Magistrate Judge
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